No fee is allowed to any other member of the firm who may attend the trial as solicitor. This, so I understand, is the practice. No certificate for counsel is required. But, if it is desired to bring in another and outside advocate as leading counsel, then a certificate for two counsel is required before brief fees, etc., will be allowed to or in respect of such leading counsel and the member of the firm appearing as junior counsel will be allowed "the usual charges".

This is how I interpret Instructional Rule iv and is the principle on which the bill should have been drawn and have been taxed. I think that the fee of 2/3rds to junior counsel is wrong in principle, where such so-called junior counsel is a member of the firm of advocates and solicitors briefing leading counsel.

It seems to me to be unnecessary and superfluous to send the bill back to the Registrar to review his taxation on the basis I have indicated and I can, on this appeal, make the necessary order myself.

I confirm the allowance of $1,000 by the Registrar under the item headed 239 (but which should have been Item 86) and subsequent items thereunder, as a "getting-up" fee.

I confirm the allowances under Items 253, 244 and 246, but with some hesitation, as to the amounts allowed.

I delete, or tax off, all items under Item No. 251 and I substitute an allowance of $1,260 for the $2,000 for brief and refreshers to junior counsel. This is on the basis of $140 per day of nine days and he has already been allowed $15 for attending to hear judgment.

I confirm the fee of $3,000 allowed in respect of leading counsel.

The result is a diminution in the amount of the bill of $1,280 and therefore the allocatur to be issued will be for $6,401.50.

Under the circumstances, I make no order as to the costs of this appeal.

Order accordingly.

SARBAN SINGH vs. P. P.

[Appellate Criminal Jurisdiction (Poyser, C.J.)

November 15, 1940]

Minor Offences Enactment (Cap. 46), section 28 (i)—Offensive weapon—Parang.

The appellant was charged with and convicted of the following offence: "That you....did go armed with an offensive weapon, to wit, a long parang, contrary to the provisions of section 28 (i), Cap. 46."

Held, that a parang cannot be regarded as an offensive weapon within the meaning of the section. To hold otherwise would render liable to punishment most of the agriculturists in Malaya. An offensive weapon in the section means an instrument primarily intended for offence, not an instrument primarily intended for other purposes.

A. K. Sen for appellant.

T. T. Russell, Deputy Public Prosecutor, for respondent.

Poyser, C.J.—The appellant was charged with the following offence:

"That you at 8th July, 1940, at 8.35 p.m. at 12th mile, Sungei Buloh, did go armed with an offensive weapon, to wit, a long parang, contrary to the provisions of section 28 (i) Cap. 46 and thereby committed an offence under that section under that Enactment."

A sub-inspector and a police constable gave evidence for the prosecution. It was to the following effect; that in consequence of information received they went to Sungei Buloh, and there saw the appellant on the foot-path in front of a shop holding a parang.

The appellant gave evidence, and admitted being in possession of the parang, and stated that he had borrowed it from one Periasamy in order to put up a fence round his house, and he had no intention to injure anyone with it.

Chapter 46 does not define an offensive weapon although it does lay down that certain arms and weapons are not to be deemed offensive weapons. I do not think a parang can be regarded as an offensive weapon within the meaning of this section. To hold otherwise would render liable to punishment most of the agriculturists in Malaya. No doubt a parang can be used as an offensive weapon, so, for that matter, can a rubber tapper's knife, and a number of other agricultural and domestic implements.

An offensive weapon in the section means, in my opinion, an instrument primarily intended for offence, not an instrument primarily intended for other purposes.

The appeal is accordingly allowed and the conviction set aside. The fine of $15 which has been paid will be refunded to the appellant.

Appeal allowed. Conviction set aside.